

Title 33
ENVIRONMENTAL QUALITY

Part I. Office of the Secretary
Subpart 1. Departmental Administrative Procedures

Chapter 27. Mercury Risk Reduction

Subchapter A. Requirements Related to the Sale of Mercury-Added Products

§2701. Authority

A. Regulations for the purpose of mercury risk reduction in the state of Louisiana are hereby established by the department pursuant to R.S. 30:2571-2588.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571-2588.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

§2703. Purpose

A. The purpose of this Chapter is to supplement procedures and requirements set forth in the Louisiana Mercury Risk Reduction Act, R.S. 30:2571 et seq., for manufacturers of mercury-added products offered for sale, users of mercury-added products in drinking water and wastewater treatment systems, and dismantlers of end-of-life products that contain mercury-added products within the state of Louisiana. This Chapter is in addition to any other requirements to provide notice, and nothing in this Chapter shall be construed to relieve the department or any other person from any other requirement set forth in Title 33 of the *Louisiana Administrative Code*. Furthermore, nothing in this Chapter shall prevent a manufacturer of mercury-added products, or the department, from providing additional means for public information and participation consistent with this Chapter or any other Chapter of Title 33 of the *Louisiana Administrative Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

§2705. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Amalgam—any of various alloys of mercury and other metals, as with tin or silver.

Amalgam Sludge—the mixture of liquid and solid material collected within vacuum pump filters or other amalgam capture devices.

Appliances (White Goods)—discarded domestic and commercial appliances, such as refrigerators, ranges, washers, and water heaters.

Chair Side Traps—devices that capture amalgam waste during amalgam placement or removal procedures.

Contact Amalgam—amalgam that has been in contact with a patient. Examples include extracted teeth with amalgam restorations, carving scrap collected at chair side, and amalgam captured by chair side traps, filters, or screens.

Empty Amalgam Capsule—an individually-dosed container left over after mixing pre-capsulated dental amalgam.

Fabricated Mercury-Added Product—a product that consists of a combination of individual components that combine to make a single unit including, but not limited to, mercury-added measuring devices, lamps, and switches.

Formulated Mercury-Added Product—a chemical product, including, but not limited to, laboratory chemicals, cleaning products, cosmetics, pharmaceuticals, and coating materials, that is sold as a consistent mixture of chemicals.

Health Care Facility—any hospital, nursing home, extended care facility, long-term care facility, clinical or medical laboratory, state or private health or mental institution, clinic, physician's office, or health maintenance organization.

Manufacturer—any person, firm, association, partnership, corporation, governmental entity, organization, or combination or joint venture that produces a mercury-added product, or an importer or domestic distributor of a mercury-added product produced in a foreign country. In the case of a multi-component mercury-added product, the *manufacturer* is the last manufacturer to produce or assemble the product. If the multi-component product is produced in a foreign country, the *manufacturer* is the importer or domestic distributor.

Mercury-Added Novelty—a mercury-added product intended mainly for personal or household enjoyment or adornment. *Mercury-added novelties* include, but are not limited to, items intended for use as practical jokes, figurines, adornments, toys, games, cards, ornaments, yard statues and figures, candles, jewelry, holiday decorations, items of apparel including footwear, and similar products.

Mercury-Added Product—a product, commodity, or chemical, or a product with a component, that contains mercury or a mercury compound intentionally added to the product, commodity, chemical, or component in order to provide a specific characteristic, appearance, or quality or to perform a specific function or for any other reason. These products include *formulated mercury-added products* and *fabricated mercury-added products*, as defined in this Subsection. The presence of mercury as a contaminant does not of itself make a product a *mercury-added product*.

Mercury Fever Thermometer—a mercury-added product that is used for measuring body temperature.

Motor Vehicle—an automobile, motor home, motorcycle, all-terrain vehicle, recreational vehicle trailer, boat trailer, semitrailer, truck, truck-tractor, and any other device that is self-propelled and drawn, in, upon, or by which any person or property is or may be transported or drawn either upon or off a public highway, except such as is moved by animal power, or is used exclusively upon stationary rails or tracks, or is an implement of husbandry.

Non-Contact Amalgam (Scrap)—excess amalgam mix left over at the end of a dental procedure that has not come into physical contact with a patient.

Vacuum Pump Filter—a device used for filtering amalgam solids from vacuum lines that may contain amalgam sludge and water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

§2707. Notifications

A. Effective January 1, 2007, no mercury-added product shall be offered for final sale or use or distributed for promotional purposes in Louisiana without prior notification in writing by the manufacturer of the product to the Office of the Secretary in accordance with the requirements of this Section. The Interstate Mercury Education and Reduction Clearinghouse (IMERC) report may be used for notification purposes; a form can be obtained from IMERC, the department, or the department's website.

1. The notification to the department shall, at a minimum, include:

- a. a brief description of the product to be offered for sale, use, or distribution;
- b. the amount of, and purpose for, mercury in each unit of the product;
- c. the total amount of mercury contained in all products manufactured by the manufacturer; and
- d. the name and address of the manufacturer, and the name, address, and phone number of a contact at the manufacturer.

2. For purposes of complying with this Section, the manufacturer may submit to the department a copy of the report sent by the manufacturer to IMERC. At a minimum, the copy of the report shall contain the information listed in Subparagraphs A.1.a-d of this Section.

B. Any mercury-added product for which federal law governs notice in a manner that preempts state authority shall be exempt from the requirements of this Section.

C. ~~With the approval of the department,~~ The manufacturer may supply the information required in this Section for a product category rather than an individual product. The manufacturer shall update and revise the information in the notification on an annual basis, indicating all changes, whenever there is a change in the information, or when requested to do so by the department, ~~within 90 days of the change~~. A notification in accordance with this Subsection is to be submitted to the Office of the Secretary.

D. A manufacturer may request confidentiality for certain submitted information by following the procedures in LAC 33:I.Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

§2709. Notification of Restrictions Governing Sale of Certain Mercury-Added Products

A. The final sale or use or distribution of certain mercury-added products have been restricted in R.S. 30:2575(A)-(D).

B. Manufacturers that produce and sell such materials shall notify retailers about these restrictions in writing. The notification shall contain the following information:

- 1. the date of restriction;
- 2. proper handling and disposal instructions;
- 3. recycling options; and
- 4. proper clean-up instructions in case of spills.

C. Manufacturers shall keep records documenting this notification and make them immediately available for the department's inspection upon request. These records shall be maintained for at least three years after the notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

§2711. Petitions for Exemptions from Phase Outs

A. The manufacturer of a mercury-added product subject to the phase-out provisions of R.S. 30:2576 may petition the administrative authority for an exemption.

B. Applications for exemption from mercury-added product phase-out must contain the following information:

1. documentation of the basis for the requested exemption or renewal of exemption;
2. a description of how the manufacturer will ensure that a system exists for the proper collection, transportation, and processing of the products at the end of their useful lives;
3. documentation of the readiness of all necessary parties to perform as intended in the planned system;
4. a statement of the consistency of the exemption request with the practices of other IMERC states;
5. criteria considering whether use of the product is beneficial to the environment or protective of public health or protective of public safety, and, if so, how;
6. criteria considering whether there exist any technically feasible alternatives to the use of mercury in the product, and, if so, a description of such alternatives; and
7. criteria considering whether any comparable non-mercury added products are available at a reasonable cost, and, if so, a description of such products and their costs.

C. A mercury-added product shall be exempt from the limits on total mercury content set forth in R.S. 30:2576(A), if the level of mercury or mercury compounds contained in the product is required in order to comply with federal or state health, safety, or homeland security requirements. In order to claim an exemption under this provision the manufacturer must notify, in writing, the Office of the Secretary and provide the legal justification for the claim of exemption.

D. The administrative authority may provide exemptions from the limits on total mercury content set forth in R.S. 30:2576(A) for a product or category of products when requested to do so, and when such an exemption is deemed appropriate after consideration of the factors enumerated in Paragraphs B.1-7 of this Section, as well as any other pertinent factors.

E. The administrative authority shall decide whether to grant the exemption requested within 180 days from the date on which the request for exemption was filed, unless a longer time period is agreed upon by mutual consent of the applicant and the administrative authority.

F. Exemptions may be renewed upon reapplication by the manufacturer and findings by the department of continued eligibility under the criteria of this Section and of compliance by the manufacturer with the conditions of its original approval. Exemptions may be renewed one or more times, and each renewal shall be for a period of no longer than two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

§2713. Labeling of Mercury-Added Products

A. The responsibility for product and package labels required by this Section and R.S. 30:2577 shall be on the manufacturer and not on the wholesaler or retailer unless the wholesaler or retailer agrees with the manufacturer to accept responsibility in conjunction with implementation of an alternative to the labeling requirements of this Section approved under R.S. 30:2579 and LAC 33:I.2715. In the case of a multi-component product the responsible manufacturer is the last manufacturer to produce or assemble the product or, if the multi-component product is produced in a foreign country, the responsible manufacturer is the importer or domestic distributor.

B. Except for items described in R.S. 30:2578, mercury-added products and their associated packaging manufactured after July 1, 2008, shall be labeled in accordance with this Section.

~~C. The following labeling standards shall apply to all mercury-added consumer products and associated packaging. The label shall:~~

- ~~1. be clearly visible to the product purchaser prior to sale and at the point of sale;~~
- ~~2. be printed in English using a 10 point font or larger;~~
- ~~3. be mounted, engraved, molded, embossed, or otherwise affixed to the product using materials that are sufficiently durable to remain legible throughout the life of the product;~~
- ~~4. bear the wording "Contains Mercury" or equivalent wording;~~
- ~~5. state that the product cannot be placed in the trash and must be recycled, handled as a universal waste, or disposed of as a hazardous waste. This requirement can be satisfied by any of the following wordings, or other wordings that are substantially equivalent:~~

~~"Contains Mercury. Don't Put In Trash. Recycle or Dispose as Hazardous Waste."~~

~~"Contains Mercury. Dispose of According to Local, State, and Federal Laws."~~

~~"Contains Mercury. Dispose of Properly."~~



~~D. The labeling requirements of Subsection C shall not apply to non-consumer replaceable lamps and components as long as directions for proper disposal are included in the technician's repair manual.~~

EC. If a mercury-added product is a component of another product, the product containing the mercury-added component and the component itself must both be labeled. The product containing a mercury-added component shall be labeled in accordance with Paragraphs **CF**.1-5 of this Section. The label on the larger product must clearly identify the internal mercury-added component with sufficient detail so that it may be readily located for removal. The labeling requirements of this Subsection shall not apply to non-consumer **replaceable** lamps and

components as long as directions for proper disposal are included in the technician's repair manual product literature. This requirement can be satisfied by the following wording, or other wording that is substantially equivalent.

"The [insert description of component] in this product contains mercury. Dispose of according to local, state, and federal laws."

F. If the product is sold in packaging that obscures the label, the packaging also must be labeled.

1. The label on the packaging must:
 - a. be visible at the time of purchase;
 - b. bear the wording "Contains Mercury" in a 10 point or larger font;
 - c. identify the mercury-added component within the package (e.g., "Lamp Contains Mercury." if the product is a light fixture that includes a fluorescent lamp); and
 - d. bear the wording "Dispose of according to local, state, and federal laws." or "Do not place in trash. Dispose of as a hazardous waste." or some equivalent wording.

D. 2. Manufacturers of products packaged but not yet sold before the effective date of this Section may apply to the department for an exemption from the labeling requirements of this Section.

GE. If the product is offered for sale or use or promotional purposes by catalog, telephone, or Internet such that the label on the product or packaging is not visible prior to purchase or receipt, the consumer must be made aware prior to purchase or receipt that there is intentionally-added mercury in the product by placing a label or providing other information in sales literature, on website pages, etc.

F. The following labeling standards shall apply to all mercury-added consumer products and associated packaging. The label shall:

1. be clearly visible to the product purchaser prior to sale and at the point of sale;
2. be printed in English using a 10 point font or larger;
3. be mounted, engraved, molded, embossed, or otherwise affixed to the product using materials that are sufficiently durable to remain legible throughout the life of the product;
4. bear the wording "Contains Mercury" or equivalent wording;
5. state that the product cannot be placed in the trash and must be recycled, handled as a universal waste, or disposed of as a hazardous waste. This requirement can be satisfied by any of the following wordings, or other wordings that are substantially equivalent.

"Contains Mercury. Don't Put In Trash.
Recycle or Dispose of as Hazardous Waste."

"Contains Mercury. Dispose of According to
Local, State, and Federal Laws."

"Contains Mercury. Dispose of Properly."



G. If the product is sold in packaging that obscures the label, the packaging also must be labeled in accordance with Paragraphs F.1-5 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

§2715. Alternative Methods of Public Notification

A. A manufacturer may apply to the department for an alternative to the requirements of R.S. 30:2577 and LAC 33:I.2713 where strict compliance with the requirements is not feasible, or the proposed alternative would be at least as effective in providing pre-sale notification of mercury content and in providing instructions on proper disposal, or federal law governs labeling in a manner that preempts state authority.

B. The manufacturer of a mercury-added product subject to the labeling provisions of R.S. 30:2577 and LAC 33:I.2713 may apply to the department for approval of an alternative labeling plan. Applications for approval of an alternative labeling plan must contain the following information:

1. documentation of the justification for the requested alternative, which shall include, but not be limited to, any claim that strict compliance with the requirements of R.S. 30:2577 and LAC 33:I.2713 is not feasible, and any claim that federal law governs labeling in a manner that preempts state authority;
2. a description of how the alternative ensures that purchasers or recipients of mercury-added products will be made aware of mercury content prior to purchase or receipt;
3. a description of how a person discarding the product will be made aware of the need for proper handling to ensure that the product is not disposed of with trash or garbage or in a sewer system;
4. documentation of the readiness of all necessary parties to implement the proposed alternative; and
5. a description of the performance measures to be utilized by the manufacturer to demonstrate that the alternative is providing effective pre-sale notification and pre-disposal notification.

C. The department may approve, deny, modify, or condition a requested alternative to the requirements of R.S. 30:2577 and LAC 33:I.2713. Approval of the application for the alternative method of public notification shall be for a period of no more than two years and may, upon continued eligibility under the criteria of R.S. 30:2577 and this Section and compliance with the conditions of its prior approval, be renewed for two-year intervals. Prior to approving an alternative, the department shall consult with neighboring states and regional and national organizations to ensure that the alternative labeling requirements are consistent with those of other governments in the region.

D. Requests for renewals of alternative labeling plans shall be submitted to the Office of the Secretary in writing six months prior to the renewal anniversary date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

§2717. Collection of Mercury-Added Products

A. A manufacturer of any mercury-added product containing more than 10 milligrams of mercury that is offered for final sale or use or distributed for promotional purposes in the state must implement a collection system plan that has been approved by the department. For a product that contains more than one mercury-added product as a component, the limits specified in this Subsection apply to each component. A manufacturer may develop a collection system plan either on its own or in concert with others.

B. The collection system plan must provide for the removal and collection of the mercury-added component or the collection of both the mercury-added component and the product containing it.

C. Prior to offering any mercury-added product containing more than 10 milligrams (or for products with removable components, more than 10 milligrams per component) of mercury for final sale or use or distribution for promotional purposes in Louisiana, the manufacturer or its representative shall submit a written collection system plan, or a request for exemption from the collection system plan requirement, to the Office of the Secretary and receive the department's approval. The proposed plan shall include the following information:

1. the manufacturer's name, mailing address, and if available, Internet address;
2. the contact person's name and phone number;
3. documentation describing a public education program, including implementation dates, that will inform the public about the purpose of the collection system program and how to participate in it;
4. identification of the targeted capture rate for the mercury-added product, product category, or component;
5. a plan for implementation of the proposed collection system, including documentation demonstrating the financing thereof;
6. documentation of the willingness of all necessary parties to implement and participate in the program, and their contact information;
7. a description of the performance measures to be used to demonstrate that the collection system is meeting capture rate targets;
8. a description of additional or alternative actions that will be implemented to improve the collection system and its operation in the event that the program targets are not met;
9. a description of a recycling or disposal plan;
10. a signed certification stating that the person signing:
 - a. has personally examined and is familiar with the information submitted within the collection system plan and all attachments; and
 - b. is authorized to sign the certification by the entity on whose behalf he is signing.

D. Within a year of the department's approval of the collection system plan, the manufacturer, or the entity that submitted the plan on behalf of the manufacturer, shall ensure that a convenient and accessible recovery system for the users of those products is in full operation. Two years following the implementation of the collection system plan required under this Section, and every two years thereafter, the manufacturer, or the entity that submitted the plan on behalf of the manufacturer, shall submit a report on the effectiveness of the collection system. The report shall be submitted to the Office of the Secretary by July 1 of each reporting year. The report shall include the following information:

1. an estimate of the amount of mercury that was collected;
2. the capture rate for the mercury-added products or components;
3. the results of the other performance measures included in the manufacturer's collection system plan; and
4. such other information as the department may require.

E. Mercury-added formulated products intended to be totally consumed in use, such as cosmetics, pharmaceuticals, and reagents and other laboratory chemicals, shall be exempt from the requirements of this Section.

F. The manufacturer of a mercury-added product subject to the collection system requirements of R.S. 30:2581 and this Section may apply to the department for an exemption from R.S. 30:2581 and this Section for a product or category of products. An exemption request shall contain, at a minimum, the following information:

1. the amount of mercury in the mercury-added product;
2. the total amount of the mercury-added product sold in Louisiana;
3. the total amount of the mercury-added product disposed of in Louisiana;
4. the feasibility of a collection system; and
5. the overall risk to human health and the environment posed by the mercury-added product.

G. The administrative authority shall decide whether to grant the requested exemption within 180 days from the date on which the request for exemption was filed, unless a longer time period is agreed upon by mutual consent of the applicant and the administrative authority.

H. Exemptions may be renewed upon reapplication by the manufacturer and findings by the department of continued eligibility under the criteria of R.S. 30:2581 and this Section and of compliance by the manufacturer with the conditions of its original approval and any other conditions the department may have added. Exemptions may be renewed one or more times, and each renewal may be for a period of no longer than two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

§2719. Disposal Ban and Proper Management of Mercury in Scrap Metal Facilities

A. On and after January 1, 2007, mercury shall not be discharged to water, wastewater treatment, and wastewater disposal systems except when it is done in compliance with applicable local, state, and federal requirements.

B. No person, including, but not limited to, Louisiana-licensed dismantlers and parts recyclers, motor vehicle crushers, and scrapped motor vehicle dealers, shall crush, bale, shear, or shred a motor vehicle unless the person has made a reasonable effort, to the extent safe and practicable, to remove, or verify the removal of, the mercury-containing convenience lighting switches and antilock braking system components. The person removing, ~~or verifying the removal of,~~ the mercury-containing convenience lighting switches and antilock braking system components ~~from a motor vehicle~~ shall maintain written certification ~~of the removal or verification~~ that the mercury-containing convenience lighting switches and antilock braking system components have been removed to the extent safe and practicable. A person verifying the removal of such mercury-containing convenience lighting switches and antilock braking system

components from the scrapped motor vehicle by another party shall maintain written documentation supporting the verification that the mercury-containing convenience lighting switches and antilock braking system components have been removed to the extent safe and practicable. Verification that the mercury-containing convenience lighting switches and antilock braking system components have been removed from a motor vehicle shall be accomplished by:

1. adoption of a best management practice (BMP) governing component mercury-added products in motor vehicles, which is provided by or approved by the department, or any other such BMP that is submitted to and approved by the department. A copy of an approved BMP and lists of known recent makes and models of motor vehicles with mercury-containing switches is available from the department and can be obtained from the department's website; and obtaining a written certification from the person, or a duly authorized representative of the person, who removed the mercury-containing convenience lighting switches and antilock braking system components that such items required to be removed have been removed and are not included, and conducting a visual inspection as practicable; or

2. participation in the EPA-partnered National Vehicle Mercury Switch Recovery Program (NVMSRP), also known as End of Life Vehicle Solutions (ELVS). adopting a best management practices plan (BMP) governing mercury-containing convenience lighting switches and antilock braking system components in motor vehicles that is provided by the department, or any other such BMP which is submitted to and approved by the department, and participation in the EPA-partnered National Vehicle Mercury Switch Recovery Program (NVMSRP), also known as the End of Life Vehicle Solutions (ELVS). A copy of an approved BMP and lists of known recent makes and models of motor vehicles with mercury-containing convenience lighting switches and antilock braking system components is available from the department and can be obtained for the department's website.

C. Any facility receiving vehicles that have been scrapped by being dismantled, crushed, scrapped, shredded, baled, sheared, or otherwise rendered more easily transported to the recycler shall obtain the a written certification from the person, or a duly authorized representative of the person, who removed delivering the scrap that the mercury-containing convenience lighting switches and antilock braking system components that such items required to be removed have been removed and are not contained in the scrap being delivered, and shall conduct a visual inspection of the scrapped vehicle to the extent practicable to ensure that the mercury-containing components have been removed. Obtaining the certification and conducting the visual inspection shall constitute verification that the mercury contained within the convenience lighting switches and antilock braking system components has been removed. Written documentation of the certification and the visual inspection required by this Subsection shall be maintained. Persons receiving the vehicles shall also conduct a visual inspection, as practicable, of the scrap delivered to verify that the component mercury-added products have been removed.

D. No person shall crush, bale, shear, or shred an appliance containing mercury-containing switches or other mercury-added products unless the person has made a reasonable effort, to the extent safe and practicable, to verify that the component mercury-added products and/or mercury-containing switches have been removed. Verification of the removal of component mercury-added products and/or mercury-containing switches contained within the appliance shall be accomplished by:

1. obtaining and maintaining a written certification from the person, or a duly authorized representative of the person, who removed the mercury-added products and/or mercury-containing switches that such items required to be removed have been removed and are not included, and conducting a visual inspection as practicable; or

~~1.2.~~ adoption of a best management practices plan (BMP) governing component mercury-added products and/or mercury-containing switches in appliances (white goods), which ~~that~~ is provided by ~~or approved by~~ the department, or any other such BMP ~~that~~ which is submitted to and approved by the department. A copy of an approved BMP and lists of known recent makes and models of appliances with component mercury-added products and/or mercury-containing switches is available from the department and can be obtained through the department's website; and.

~~2. maintenance of written certification of the screening and removal of the mercury-added products and/or mercury-containing switches by the person removing, or verifying the removal of, the component mercury-added products and/or mercury-containing switches.~~

E. Any facility receiving appliances for scrapping that contained mercury-added products and/or mercury-containing switches shall obtain a written certification from the person, by or a duly authorized representative of the person, delivering the scrap that who removed the mercury-added products and/or mercury-containing switches, that such items required to be removed have been removed and are not included in the scrap delivered. The person receiving the scrap and shall conduct a visual inspection, as safe and to the extent practicable, to ensure that the mercury-containing components have been removed. verify that all of the mercury-added products and/or mercury-containing switches have been removed. Obtaining the certification and conducting the visual inspection shall constitute verification that the mercury contained within the mercury-added products and/or mercury-containing switches has been removed. Written documentation of the certification and the visual inspection required by this Subsection shall be maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

§2721. Best Management Practices for Health Care Facilities

A. Any health care facility using a formulated mercury-added product, a fabricated mercury-added product, or a mercury-added product must maintain a current and appropriate Material Safety Data Sheet (MSDS), as defined in 42 U.S.C. 11049, for any elemental mercury used.

B. Any health care facility using a formulated mercury-added product, a fabricated mercury-added product, or a mercury-added product must maintain a statement signed by its authorized representative that certifies that its employees and other persons acting under its direction or control:

1. will use the mercury only for medical, dental, research, or manufacturing purposes;
2. understand that mercury is toxic, and will store, use, and otherwise handle such mercury in accordance with Subsection C of this Section; and
3. will dispose of the elemental mercury, formulated mercury-added product,

fabricated mercury-added product, or mercury-added product in accordance with Subsection C or F of this Section.

C. Within 180 days of the effective date of these regulations, any health care facility using a formulated mercury-added product, a fabricated mercury-added product, or a mercury-added product shall develop, maintain, and comply with a Mercury Management Plan (MMP) that is designed to eliminate or capture mercury in waste. The MMP shall contain, at a minimum, the following requirements.

1. A baseline inventory of mercury-containing devices and substances at the facility shall be listed.
2. A timeline for the reduction and eventual elimination of mercury-containing equipment and chemicals, with the exception of dental amalgam, shall be established.
3. Mercury management protocols for safe handling, mercury spill cleanup procedures, disposal procedures, and education and training of employees shall be established.
4. Discarded mercury-containing devices and substances shall be recycled to the maximum extent practicable, and records associated with such recycling shall be maintained at the facility for at least three years. Discarded mercury-containing devices and substances:
 - a. shall only be offered for recycling to treatment, storage, or disposal facilities that, if located in the United States, are either:
 - i. permitted under 40 CFR 270, LAC 33:V.Subpart 1, or a RCRA-approved hazardous waste program of any other state; or
 - ii. authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR 271; and
 - b. shall not be offered for disposal by incineration.
5. Management and storage of discarded mercury-containing devices and substances waste shall be protective of human health and the environment. Storage shall be in structurally sound, leak-proof, sealed, labeled containers that are impervious to mercury vapors. An example of a container meeting these criteria would be a clear glass container. Glass containers shall be secured inside a sturdy, padded box in order to prevent breakage of the glass and subsequent release of mercury.
6. An environmentally preferable purchasing (EPP) policy for mercury products and a process to regularly review mercury use reduction and elimination progress shall be established.
7. All other aspects of the MMP shall, at a minimum, conform to any best management practices (BMP) developed by the American Hospital Association or the American Medical Association or the American Dental Association or by Hospitals for a Healthy Environment (H2E). The H2E BMP is known as the Mercury Waste Virtual Elimination Model Plan.

D. Use of Dental Amalgam. Within 180 days of the effective date of these regulations, any health care facility using dental amalgam shall develop, maintain, and comply with a Dental Amalgam Management Plan that is designed to capture mercury in dental amalgam waste and excess. This management plan shall contain, at a minimum, the following requirements.

1. Chair-side traps and vacuum pump filters shall be used for the purpose of waste amalgam capture. Such devices shall be operated according to the manufacturer's recommendations.
2. Disposal of elemental mercury, dental amalgam, and used, disposable

amalgam capsules shall be minimized by implementing practices that reduce mercury in waste, such as use of a variety of amalgam capsule sizes to minimize non-contact amalgam waste.

3. Waste amalgam (amalgam sludge and contact and non-contact amalgam) shall be recycled to the maximum extent practicable, and records associated with such recycling shall be maintained at the facility for at least three years. Waste amalgam shall be disposed of in accordance with Paragraph C.4 of this Section.

4. Management and storage of amalgam waste shall be in accordance with Paragraph C.5 of this Section.

5. Water line cleaners shall be of a type that will minimize dissolution of amalgam. Only pH neutral, non-bleach, non-chlorine-containing suction line cleaners shall be used. Water lines shall be cleaned daily on chairs where restorative dentistry is performed and as necessary, or according to the vacuum pump manufacturer's recommendations, on other chairs.

6. All other aspects of the Dental Amalgam Management Plan shall, at a minimum, conform to the BMP for amalgam waste as developed by the American Dental Association (ADA) and effective on June 2, 2006. The ADA publishes BMPs for the disposal of dental amalgam waste. The ADA may be contacted through their website or at American Dental Association, 211 East Chicago Ave., Chicago, IL 60611-2678; phone 312-440-2500.

E. Manufacturers of mercury-containing devices and substances shall establish a convenient and accessible collection system for formulated mercury-added products, fabricated mercury-added products, and/or mercury-added products from medical facilities in accordance with LAC 33:I.2717.

F. Mercury-containing devices and substances that contain mercury in sufficient quantities to be considered a hazardous waste as defined in LAC 33:V.Subpart 1, Hazardous Waste Regulations shall be subject to that Subpart if such waste cannot be recycled in accordance with Subsection C of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.